

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

GREGORY ELAM

V

COMMONWEALTH EDISON COMPANY

Complaint as to power outages

in Downers Grove, Illinois.

Chicago, Illinois

February 7, 2007

Met pursuant to notice at 10:00 a.m.

BEFORE :

MS. LESLIE HAYNES, Administrative Law Judge.

APPEARANCES :

MR. GREGORY ELAM,
5621 Deer Path Lane,
Downers Grove, IL 60516,
appeared pro se, telephonically;

MR. MARK L. GOLDSTEIN,
108 Wilmot Road,
Deerfield, Illinois 60015,
appeared for ComEd.

SULLIVAN REPORTING COMPANY, by
Teresann B. Giorgi, CSR

1		<u>I</u>	<u>N</u>	<u>D</u>	<u>E</u>	<u>X</u>			
2							Re-	Re-	By
3	<u>Witnesses:</u>	<u>Dir.</u>	<u>Crx.</u>	<u>dir.</u>	<u>crx.</u>		<u>dir.</u>	<u>crx.</u>	<u>Examiner</u>
4	NONE								
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10		<u>E</u>	<u>X</u>	<u>H</u>	<u>I</u>	<u>B</u>	<u>I</u>	<u>T</u>	<u>S</u>
11	<u>Number</u>	<u>For</u>	<u>Identification</u>				<u>In</u>	<u>Evidence</u>	
12	NONE								
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1 JUDGE HAYNES: Pursuant to the direction of
2 the Illinois Commerce Commission, I now call
3 Docket 06-0680. This is a complaint of Gregory Elam
4 versus Commonwealth Edison Company. Complaint as to
5 power outages in Downers Grove, Illinois.

6 Can I have your name and address for
7 the record, please, Mr. Elam.

8 MR. ELAM: Gregory Elam, 5621 Deer Path Lane,
9 Downers Grove, Illinois 60516.

10 MR. GOLDSTEIN: On behalf of Commonwealth Edison
11 Company, Mark L. Goldstein, 108 Wilmot Road,
12 Suite 330, Deerfield, Illinois 60015. I have with
13 me today John Parise of ComEd.

14 JUDGE HAYNES: Okay. I sent out a notice
15 requesting more information from the company and
16 I've received their response. And looking at it, it
17 appears that for more than four hours there were
18 more than 30,000 customers out of service. And
19 based on that I think we can go ahead and schedule
20 this for further hearings because there are no
21 outstanding motions and so, we're just here today to
22 schedule.

1 MR. GOLDSTEIN: Judge, let me just make a brief
2 statement, if I may, for the record.

3 It seems to me that the matter
4 really does not hinge on an interpretation of
5 Section 16.125 of the Public Utilities Act. If you
6 read Section 16.125 carefully, you will note that
7 there is no definition of interruption or outage in
8 that section of the Act, rather, you have to turn to
9 Section 411.20 of 83 Illinois Administrative Code to
10 see -- to review what interruption or outage is.
11 Commonwealth Edison simply did not have the time to
12 do a meteorological investigation.

13 Our contention is, in simple terms, so
14 that everybody is aware of it, prior to your
15 scheduling, that on August 2nd and August 3rd, 2006,
16 there were numerous storms across Commonwealth
17 Edison Company's service territory.

18 We believe that the definition of
19 "interruption" or "outage" contemplates a single
20 event. And, therefore, 16.125 really does not
21 apply. And we believe, obviously, then,
22 Commonwealth Edison Company properly denied

1 Mr. Elam's claim for damages. But, we'll be
2 prepared at a hearing to prove what I've just
3 stated.

4 JUDGE HAYNES: Not in a form of a motion to
5 dismiss?

6 MR. GOLDSTEIN: Not at this time, Judge.

7 JUDGE HAYNES: Okay. Is one month enough time
8 for the parties to prepare for hearing?

9 MR. ELAM: That's fine for me.

10 JUDGE HAYNES: Okay.

11 MR. GOLDSTEIN: Any time the week of March 12th
12 would be fine for me, Judge.

13 JUDGE HAYNES: How about March 14th?

14 MR. ELAM: What day of the week is that?

15 JUDGE HAYNES: Wednesday?

16 MR. ELAM: That will be fine.

17 JUDGE HAYNES: And this will be for evidentiary
18 hearing, at which time, Mr. Elam, you'll have to
19 bring any evidence with you that supports your
20 claim.

21 MR. ELAM: Okay.

22 JUDGE HAYNES: You can bring in your witness.

1 MR. ELAM: I'd probably -- I'm working on
2 retaining an attorney to help me with this, so I'm
3 working on that. So, I will probably have an
4 attorney, not 100 percent positive, but I'm working
5 on that right now.

6 JUDGE HAYNES: That sounds good.

7 At 10:00 in the morning on March 14th.

8 MR. ELAM: And at that time I will have to
9 appear?

10 JUDGE HAYNES: Yes, because you will be
11 testifying in support of your complaint.

12 MR. ELAM: Okay.

13 JUDGE HAYNES: And I don't know if the parties
14 have exchanged any information, but if you feel that
15 you need some -- has any discovery occurred between
16 the parties?

17 MR. GOLDSTEIN: We have not had any formal
18 discovery, Judge.

19 JUDGE HAYNES: Okay. If you would like any
20 information regarding your complaint from the
21 company, contact Mr. Goldstein and --

22 MR. ELAM: Well, can I just request now that

1 they provide all the documentation that they have
2 for me?

3 MR. GOLDSTEIN: What documentation?

4 JUDGE HAYNES: Regarding the. . .

5 MR. ELAM: You know, responses, their letters,
6 their research into what happened, the people I've
7 interacted with during --

8 JUDGE HAYNES: So, you'd like if the company
9 has any records of correspondence between you and
10 the company?

11 MR. ELAM: Right. When I called and asked for
12 things -- you know, I was sent letters, but if
13 there's anything else besides letters showing their
14 research or their -- I know there was a Carla that
15 told me there was transformers out. There were,
16 like, 18 transformers in Deer Creek and one of those
17 went out and that was in contradiction to something
18 somebody else said. So, if there's any evidence
19 showing exactly what happened that day, I would
20 appreciate seeing it.

21 JUDGE HAYNES: Okay. Correspondence. Any
22 record of any communications between the company and

1 you.

2 MR. ELAM: Yeah. And, also, their inner
3 workings of anything that they have, as far as hard
4 copy of anything.

5 MR. GOLDSTEIN: May I suggest, Judge, if
6 Mr. Elam has any specific requests that he make them
7 in writing to me and I will respond accordingly.

8 JUDGE HAYNES: Okay.

9 MR. ELAM: Well, I don't know what exists, so I
10 can't do that.

11 MR. GOLDSTEIN: I can't provide you the
12 universe, Mr. Elam, I'm sorry.

13 MR. ELAM: I'm not asking for the universe. I'm
14 just asking if you have any hard copy of any
15 documents that you generated during this complaint
16 process.

17 JUDGE HAYNES: So, are you talking about the
18 complaint process that you went through already with
19 the company?

20 MR. ELAM: Specifically what I'm talking about,
21 after this happened and I wrote some letters, I got
22 a response on the phone from a Carla about a week

1 after the power outage. And she -- we spoke at
2 length, and she told me something about they did
3 research or they looked into and there were like all
4 these transformers in Deer Creek and that one of
5 them went out. You know, she's the only person that
6 told me that. Other representatives told me other
7 things. Specifically that. If he can give me -- if
8 that is what happened, I would like to see the
9 evidence of that. If that's what happened, I would
10 like to see the evidence of that.

11 MR. GOLDSTEIN: I do not know quite how to
12 respond to Mr. Elam's request.

13 MR. ELAM: Well, it's pretty specific.

14 JUDGE HAYNES: Hold on, Mr. Elam.

15 MR. GOLDSTEIN: What you consider specific, I
16 consider incredibly general and global.

17 I'll tell you what we will do. We
18 will provide Mr. Elam our response to the Commission
19 with respect to his informal complaint and any other
20 information that we develop prior to the evidentiary
21 hearing.

22 JUDGE HAYNES: This claim number on your

1 complaint, Mr. Elam --

2 MR. ELAM: Uh-hum.

3 JUDGE HAYNES: -- is that from the Commission,
4 or is that a ComEd claim number?

5 MR. ELAM: I'm not sure what you're referring
6 to.

7 JUDGE HAYNES: It's on the top of Page 2 of your
8 complaint. It says, Denial, ComEd, Damages, Claim
9 Number --

10 MR. GOLDSTEIN: It's ComEd's claim number,
11 Judge.

12 JUDGE HAYNES: Okay. If the company can
13 provide -- if you have any paperwork that went with
14 denying that claim.

15 MR. GOLDSTEIN: Well, I'm certain if there were
16 any correspondence with respect to the claim that
17 Mr. Elam was notified by a ComEd representative that
18 the claim was denied.

19 JUDGE HAYNES: Okay.

20 MR. GOLDSTEIN: I'm certain he would have that.
21 Do you have that, Mr. Elam?

22 MR. ELAM: I have three letters from ComEd.

1 JUDGE HAYNES: So, perhaps, if the company has
2 any other paperwork pertaining to the denial of that
3 claim.

4 MR. ELAM: My letters are from Joan Lynch,
5 Claims Adjustor. So, if you have anything besides
6 her letters, because I did speak with Carla. You
7 know, that's the one thing that hasn't been
8 documented. We just spoke about it. And I think I
9 said that I would take her word. There was no way
10 that I could --

11 JUDGE HAYNES: Do you have Carla's last name?

12 MR. ELAM: No, I don't.

13 JUDGE HAYNES: Okay.

14 MR. ELAM: It was, approximately, a week or a
15 little less that she called after this happened,
16 after I had written letters. And she was real nice
17 and we spoke at length. But, you know, that's what
18 she told me.

19 JUDGE HAYNES: If there's anything else you can
20 call Mr. Goldstein, if you think of something.

21 MR. GOLDSTEIN: That's why I made the offer to
22 provide whatever we find as a result of our

1 investigation, Judge.

2 JUDGE HAYNES: Okay. Please do.

3 MR. GOLDSTEIN: I don't know if we can do much
4 more.

5 MR. ELAM: Well, the reason I'm asking now is
6 because it just saves time. If I can tell you now,
7 why shouldn't I tell you now.

8 JUDGE HAYNES: And those requests are noted for
9 the record and that Mr. Goldstein will provide you
10 the results of the investigation. And if that can
11 all be provided to Mr. Elam before the hearing so he
12 has a chance to review that.

13 MR. GOLDSTEIN: We will do that, Judge.

14 JUDGE HAYNES: When do you think you can get
15 that to him?

16 MR. GOLDSTEIN: We will provide it, at least,
17 one week prior to the hearing, Judge.

18 JUDGE HAYNES: Okay. By March 7th, the latest.

19 MR. ELAM: Well, I'm not sure if that's going to
20 give me enough time to review it, but we'll see what
21 happens.

22 MR. GOLDSTEIN: Let's keep in mind, Judge, that

1 Mr. Elam's request, whereas he says it's specific,
2 it's rather general, and it's going to take a lot of
3 searching around to try to satisfy whatever we can
4 provide him.

5 JUDGE HAYNES: Or if you can come up with some
6 right away and send him that and then if the other
7 parts take longer --

8 MR. GOLDSTEIN: That will be fine. We'll do
9 that.

10 JUDGE HAYNES: Okay. Then, we are continued
11 until --

12 MR. ELAM: Judge, I just have one other thing to
13 sort of respond to Mr. Goldstein's original
14 statement -- or beginning statement.

15 I would just like to say that, you
16 know, one of the things I was told was that this was
17 a weather related outage, but in my original
18 response to my denied complaint I specifically said
19 that the outage here occurred before the storms
20 crossed the area, approximately, 30 minutes, 20
21 minutes, 30 minutes, so. . . They don't seem like
22 they were weather related at that point.

1 JUDGE HAYNES: Okay.

2 MR. ELAM: It wasn't like Mr. Goldstein says
3 that it was a general thing. It was a specific
4 thing that happened here.

5 JUDGE HAYNES: You know, the statute provides
6 that if the company can show that the power
7 interruption was a result of weather events --
8 unpreventable damage due to weather events, then,
9 this particular section can be waived. So, it's up
10 to the company to show that. And Mr. Goldstein has
11 indicated that he'll make that showing at the
12 hearing.

13 SMR. ELAM: But, my contention is is that this
14 happened here before the weather crossed the area.

15 JUDGE HAYNES: And we'll get that on the record
16 at the evidentiary hearing.

17 MR. ELAM: Okay. Very good.

18 JUDGE HAYNES: And we're continued to March 14th
19 at 10:00. Would the parties like to have an
20 opportunity to talk?

21 MR. GOLDSTEIN: Yes. I know Mr. Parise has
22 already discussed the possibility of a settlement

1 with Mr. Elam. Maybe we ought to spend a few
2 minutes more with him.

3 JUDGE HAYNES: Okay. I'll leave you here in the
4 room and we're going to go off the record and I will
5 see everybody March 14th, unless I hear otherwise.

6 Thank you.

7 MR. ELAM: Thank you, Judge.

8 MR. GOLDSTEIN: Thank you, Judge.

9 (Whereupon, the above-entitled
10 matter was continued to
11 March 14th, 2006.)

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